

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**JODY SMITH**, individually and on behalf of  
all others similarly situated,

*Plaintiff,*

v.

**EXPOSURE IS EVERYTHING LLC  
d/b/a Fluent**

*Defendant.*

Case No. 1:25-cv-425

**CLASS ACTION**

**JURY TRIAL DEMANDED**

**REQUEST FOR CLERK'S ENTRY OF DEFAULT  
AGAINST DEFENDANT EXPOSURE IS EVERYTHING LLC**

COMES NOW Plaintiff Jody Smith, by and through the undersigned counsel, pursuant to FED. R. CIV. P. 55(a), and hereby files this Motion for Clerk's Entry of Default against Defendant Exposure is Everything LLC in the above-styled action. Plaintiff respectfully requests that the Clerk of Court enter default as the Defendant has failed to serve or file an answer to Plaintiff's claims in this action within the time permitted by law or otherwise.

Federal Rule of Civil Procedure 12(a), entitled "Time to Serve a Responsive Pleading," provides in pertinent part that "[a] defendant must serve an answer within 21 days after being served with the summons and complaint." FED. R. CIV. P. 12(a)(1)(A)(i). Federal Rule of Civil Procedure 55(a), entitled "Entering a Default," provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk *must* enter the party's default." FED. R. CIV. P. 55(a) (emphasis added).

Here, the Plaintiff filed their Amended Complaint naming Exposure is Everything on February 11, 2025. (See ECF No. 7.) Defendant Exposure is Everything was served with the Summons and Complaint upon its owner on March 13, 2025. (See ECF No. 13.) Accordingly, Defendant's responsive pleading was due on April 3, 2025. Defendant did not file a response as of April 9, 2025. Accordingly, the Plaintiff requests that the Clerk enter the Defendant's default pursuant to FED. R. CIV. P. 55(a).

The Plaintiff intends to move for leave to conduct discovery into the classwide claims shortly and potentially move for class certification prior to seeking a default judgment.

### **CONCLUSION**

WHEREFORE, for the reasons set forth herein, the Plaintiff respectfully requests that the Clerk of Court enter default against the Defendant pursuant to FED. R. CIV. P. 55(a).

RESPECTFULLY SUBMITTED AND DATED this April 9, 2025.

/s/ Andrew Roman Perrong  
Andrew Roman Perrong, Esq.  
PA Bar #333687 (*Pro Hac Vice*)  
Perrong Law LLC  
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Glenside, Pennsylvania 19038  
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a@perronglaw.com  
Lead Attorney for Plaintiff and the Proposed Class

**CERTIFICATE OF SERVICE**

I certify that I filed the foregoing via ECF on the below date, which will automatically send a copy to all attorneys of record on the case.

I further certify that I mailed a copy of the foregoing to:

Exposure is Everything LLC  
7829 North Dale Mabry Highway, Suite 202  
Tampa, FL 33614  
Tracking Number: 00310903331480013002

Dated: April 9, 2025

/s/ Andrew Roman Perrong  
Andrew Roman Perrong, Esq.  
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